



*"Service with Excellence and Integrity"*

## **Arkansas Department of Community Correction**

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### **ADMINISTRATIVE DIRECTIVE: 10-03 HARRASSMENT**

**TO: DEPARTMENT OF COMMUNITY CORRECTION (DCC) EMPLOYEES**

**FROM: DAVID EBERHARD, DIRECTOR**

**SUPERSEDES: AD 00-12**

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**APPROVED: Signature on File**

**EFFECTIVE: June 30, 2010**

**I. APPLICABILITY.** This policy applies to all DCC employees, and its agents, such as volunteers, contractors, and vendors, and all phases of employment including hiring, training, testing, promotion, demotion, transfer and termination.

**II. POLICY.** It is the policy of the Department of Community Correction (DCC) to provide an environment where employees can work together comfortably and productively, free from harassment. Harassment of individuals is prohibited by State and federal law and will not be tolerated. Employees of the DCC must respect the civil rights of fellow employees and offenders and must not engage in retaliatory acts against anyone who claims or reports harassment.

### **III. DEFINITIONS.**

**A. Agent.** A contractor, vendor, or volunteer having a formal or informal relationship with the DCC.

**B. Sexual Harassment.** Directing unwelcome and offensive sexual advances, requests for sexual favors and other verbal and physical sexual conduct toward a person thereby altering the conditions of employment to such an extent that a reasonable person would consider the work environment to be hostile, offensive, intimidating or abusive; basing employment decisions on an employee's submission to or rejection of the sexual advances.

**IV. GUIDELINES.** Employees should refrain from engaging in behavior or speech that a reasonable person would consider to be unwelcome and offensive. The perception of the recipient, not the intent of the alleged harasser, is relevant when judging whether certain behaviors constitute harassment. Acts that are not inherently sexual, but are unwelcome and offensive and targeted to a person because of his or her sex are also prohibited.

**A. Sexual Harassment.** (4-ACRS-7E-04 and 3-3053)

1. Bargaining for sexual favors. DCC employees and agents shall not bargain with an employee or agent for sexual favors, nor make or infer job benefits or advantages contingent upon an employee's acceptance of such an offer. The following are some examples of prohibited behavior:
  - a. an employee or agent threatens or implies that failure to accept a request for a date or to be receptive to flirtations will affect an employee's ability to obtain a job promotion or a favorable performance report;
  - b. an employee or agent makes written contact such as sexually suggestive or obscene letters, notes or invitations.
  - c. verbal contact, such as sexually suggestive or obscene comments, threats, slurs, epithets, jokes about gender – specific traits, or sexual propositions.
  - d. physical contact, such as intentional touching, pinching, brushing against another's body, impeding or blocking movement, assault, or coercing sexual intercourse.
  - e. visual contact such as leering or staring at another's body, gesturing or displaying sexually suggestive objects, pictures, cartoons, posters or magazines; and
  - f. offering benefits such as promotion, favorable performance evaluation, duties, shifts, or recommendations in exchange for sexual favors.
2. Hostile Work Environment. No DCC employee or agent shall be permitted to act in a way that creates or contributes to an intimidating, hostile, or offensive work environment. The following are some examples of contact which would contribute to a hostile work environment:
  - a. written, verbal, or computer-generated (e.g., e-mail) sexually suggestive or obscene comments, invitations, propositions, threats, slurs, epithets, jokes about gender-specific traits;
  - b. impeding or blocking movement, assault, or coercing sexual intercourse;
  - c. continuing to express sexual or social interest after being informed that the interest is unwelcome;
  - d. using sexual behavior to control, influence or affect the career, salary or work environment of another employee.
  - e. suggesting, threatening or implying that failure to accept a request for a date or sexual intimacy or other such requests will affect an employee's job opportunities or performance reports.

**B. Harassment of Any Groups.** Harassment of any kind is prohibited. The following are some examples of harassing behaviors:

1. preferential or punishing treatment of persons especially by a supervisor;
2. jokes or pranks that ridicule, belittle, berate, or otherwise target people;
3. obscene language or gestures;
4. the distribution or display of written or visual materials such as magazines, cartoons, posters, or images the content of which would, by a reasonable person, be perceived as targeting people;
5. slurs made against an individual or group.

**C. Retaliation.** No employee or agent shall retaliate against another employee because of a harassment claim. Examples of such retaliatory behavior are adverse or unfavorable action taken against a subordinate because of his or her claim; ostracism, or other acts aimed at embarrassing or humiliating a claimant.

## **V. COMPLAINT PROCEDURE.**

**A. Complaint.** An employee who has been subjected to harassment prohibited under this administrative directive is encouraged to report the harassment through one of the following means:

1. His or her supervisor or someone above the supervisor in the supervisory chain, if the immediate supervisor is the harasser;
2. Employee Grievance and Mediation Procedure;
3. DCC HRS Administrator or
4. Internal Affairs Administrator.

**B. Response.** When a DCC supervisor, manager, or administrator becomes aware of alleged harassment of an employee under his/her supervision, he/she should respond as follows:

1. Immediately notify the appropriate Deputy Director through the supervisory chain so the Deputy Director can identify an appropriate person to conduct an investigation. If someone other than the Internal Affairs Investigator conducts the investigation, they may contact the IAA for assistance with tracing telephone calls and/or electronic records retrieval and may consult the EEO/Grievance Officer or Human Resources Administrator as needed.
2. Take appropriate steps to protect the harassed employee from further harassment.
3. Every effort should be made to complete the investigation within 10 days of becoming aware of alleged harassment.

4. Considering any advice received from HRS and the EEO/ Grievance Officer, and with the consent of the appropriate manager or administrator; take the appropriate action. Report the disciplinary action taken using forms prescribed in the Employee Conduct and Discipline administrative directive.
5. The supervisor should keep his or her supervisor informed at each step in the above process and, at an appropriate interval after taking action, attempt to determine whether the harassing behavior has ceased.

**C. Confidentiality.** All complaints shall be handled as confidentially as possible so that the privacy of the harassed employee and the alleged harasser are respected. At the conclusion of the investigation, the complaining employee and the alleged harasser will be informed, to the extent appropriate, of the outcome of the investigation and any action planned.

**D. False Claims.** While valid claims are encouraged, a complaint made that an employee knows is false will subject him or her to disciplinary action.

**VI. DISCIPLINE.** Violation of this policy subjects an employee to disciplinary action up to and including discharge from employment. Harassment on the part of an agent of the Department may be grounds for termination of any formal or informal agreement with the Department.

**VII. REFERENCE.** 42 U.S.C. Section 2000e et seq.; 29 CFR 1604.11; and Ark. Code Ann. §16-123-105(1).